

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

v.

Case No. 05-80955-01

TERRY LEE FLENORY,

HONORABLE AVERN COHN

Defendant-Petitioner.

ORDER DENYING MOTION FOR RECONSIDERATION (Doc. 1373)

I.

This is a motion to vacate sentence under 28 U.S.C. § 2255. Petitioner, Terry Lee Flenory, proceeding pro se, contended that the 360 month sentence imposed on him following his guilty plea to continuing criminal enterprise, in violation of 21 U.S.C. § 848, and conspiracy to launder money instructions, in violation of 18 U.S.C. § 1956(h), was in violation of his constitutional rights. Specifically, Flenory argued that he was deprived of his Sixth Amendment right to counsel at the trial and appellate level and that the Supreme Court's decision in United States v. Santos, 128 S.Ct. 2020 (2008), holding that "proceeds" as used in the money laundering statute means "net profits" rather than "receipts" of an illegal enterprise, entitled him to relief. The Court denied the motion and declined to issue a certificate of appealability. (Doc. 1368).

Before the Court is Flenory's motion for reconsideration. For the reasons that follow, the motion will be denied.

II.

Local Rule 7.1(h) allows a party to file a motion for reconsideration. However, a motion for reconsideration which presents the same issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. Czajkowski v. Tindall & Associates, P.C., 967 F. Supp. 951, 952 (E.D. Mich. 1997). The movant shall not only demonstrate a palpable defect by which the court and the parties have been misled, but also show that a different disposition of the case must result from a correction of any such defect. E.D. Mich. LR 7.1(h)(3). A palpable defect is a defect that is obvious, clear, unmistakable, manifest, or plain. Witzke v. Hiller, 972 F. Supp. 426, 427 (E.D. Mich. 1997).

Flenory has failed to satisfy this standard. As noted in the order denying relief under § 2255, Flenory filed a lengthy reply brief. (Doc. 1365). The reply brief appeared to discuss other issues, including the federal government's authority to bring changes against him in the first place. Flenory's motion for reconsideration is of the same order. The motion is rambling and includes, among other things, long recitations relating to The Federalist Papers and the Bill of Rights, particularly the Ninth and Tenth Amendments to the Constitution. The Court can discern no cogent argument, much less grounds for reconsideration. As explained in the September 27, 2011 order, Flenory has not established that his counsel was ineffective or that he is otherwise entitled to relief from his sentence. Accordingly, the motion is DENIED.

SO ORDERED.

Dated: December 8, 2011

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

**05-80955-01 USA v. Terry Flenory
Order Denying Motion for Reconsideration**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was mailed to Terry Lee Flenory, 32454044, U.S. Penitentiary, Inmate Mail/Parcels, P.O. BOX 4050, Pollock, LA 71467 and the attorneys of record on this date, December 8, 2011, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5160